IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO. 3395 OF 2004
IN
CRIMINAL APPEAL NO. 542 OF 2004

Mr. Noor Mohd. Abdul Gafoor.
....Petitioner.

Vs.

The State of Maharashtra.
....Respondent.

Mr. Mobin H. Solkar, Adv. for the Petitioner.

Mrs. U.V. Kejriwal, APP. for the Respondent.

CORAM: S.S.PARKAR &
R.S.MOHITE, JJ.
DATED: 25TH AUGUST,2004

P.C.

1. This application is made for bail on behalf of the petitioner who is the original accused No.2. His appeal against the order of conviction has been admitted by this court. The evidence of P.W.No.1 who is the brother of the deceased clearly implicates this accused alongwith accused Nos. 1 and 3 for having assaulted the deceased with swords. The other witness have turned hostile but the Trial Court has believed the evidence of P.W.No.1.

2. It is contended on behalf of this accused that out of 27 injuries vital injuries were only injury Nos. 23 and 24 which were caused by accused No.3 and not this

accused. However, it is clear from the medical evidence that as many as 27 injuries were caused to the deceased. The cause of death given by the Medical Officer was the multiple injuries received on the body of the deceased. Most of the injuries were in the nature of incised wounds all over his body which were caused by three accused including this accused.

3. It is next contended on behalf of the prosecution that he was in custody for a period of 4-years during trial and thereafter he was taken in custody after the order of conviction was recorded by the Trial court and therefore, he may be released on bail. Reliance was placed on the Judgment of the Supreme Court in the case of **Kashmira Singh Vs. The State of Punjab (1977) 4 Supreme Court 291.** In the said Judgment Supreme Court has observed that if the Supreme court was not in a position to dispose of the appeal within a reasonable period the court should release the accused on bail if there are cogent grounds for releasing the accused on bail. So far as this accused is concerned, there is cogent evidence of eye witness believed by the Trial Court about participation of this accused in inflicting injuries on the deceased which were 27 in number. Since accused is in custody for a period of more than 4 years, hearing of the appeal can be expedited.

4. In the result, the application of this applicant for bail is rejected, however, the hearing of the appeal is expedited. This appeal shall be heard alongwith Criminal Appeal No. 541 of 2004.

(S. S. PARKAR, J.)

(R.S. MOHITE, J.)